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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/13/2008 have been fully considered but they are not persuasive. Applicant's argument concerning the 35 USC §101 rejection is not persuasive. Because Applicant has defined a recording media to include signals transmitted by carrier waves in the specification, the claims do not overcome the rejection. If Applicant were to claim a storage media, this may put the claims in condition to overcome the 35 USC §101 rejection.

Applicant's arguments concerning the 35 USC §103 rejection are not persuasive. Starting on page 9 and continuing to page 10, line 9, Applicant argues against the references individually. However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

On page 10, line 10, to page 11, line 2, Applicant argues that because Florin discloses pushing an information button, this destroys the intended function of the Robarts EPG, Because Robarts discloses having information displayed without having to push a button. However, Examiner contends that the combination does not destroy the intended function of Robarts. If the multiple picture-in-guide screens of Florin were used in the guide of Robarts, the resulting guide would not look like either Robarts guide or Florins guide, but rather a combination of the two. Therefore, in looking like the guide of Robarts, but with several picture-in-guides rather than one, the guide would maintain certain features of Robarts, such as the ability to show information on multiple channels without the need to press a button.

In response to applicant's argument on page 11 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

/Josh Taylor/

Examiner, Art Unit 2426

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426